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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 045 231	11 09 2001	Kevin L. Parsons	86381	3237

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03/18/2003

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EXAMINER

WARD, JOHN A

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/045,231

Applicant(s)

PARSONS ET AL

Examiner

John A. Ward

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-30 is/are rejected.
- 7) ☒ Claim(s) 31-47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities: Page 19 of 39 line 10, the word "alight" should be the words "a light", page 14 of 39, line 16, the numbers referring to figure 18 "2929" should be "29-29", and page 16 of 39, line 5, the words "source :frame", should be "source: frame".

Appropriate correction is required.

### *Claim Objections*

Claim 9 is objected to because of the following informalities: Each claim begins with a capital letter and ends with a period, claim 9 ends with a conjunction "and" and no period. Appropriate correction is required.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-13, and 21-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-5, 7-13, and 24 of U.S. Patent No. 6,190,018. Although the conflicting claims are not identical, they are not patentably distinct from each other as referred in table below:

***Claims:***

<b>Instant Application</b>	<b>Patent (‘018)</b>	<b>Discussion or Differences</b>
<b>Claim 1</b>	<b>Claims 4, 5, and 7-8.</b>	<b>Claim 1 of instant application is narrower in scope incorporating all of the limitations of the claims 4, 5, and 7-8 listed in Patent (‘018) in a single independent claim.</b>
<b>Claim 2</b>	<b>Claim 9</b>	<b>Claim 2 of the instant application is broader in scope than patented claim 9.</b>
<b>Claim 3</b>	<b>Claim 7</b>	<b>Claim 3 of the instant application is substantially the same as claim 7 of patent (‘018).</b>
<b>Claim 4</b>	<b>Claim 24</b>	<b>The limitation of claim 4 of the instant application is incorporated in prior art of independent claim 24.</b>
<b>Claim 5</b>	<b>Claim 24</b>	<b>Claim 24 disclose all the limitations of claim 5 except of having the key extension extending from a side opposite from the light emitting diode. It would have been an obvious matter to, place the key extension extending from a side opposite from the light emitting diode, since applicant has not discloses the placing the key extension</b>

Art Unit: 2875

		side opposite form the light emitting diode solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the key extensions adjacent to the light emitting diode.
Claim 6	Claim 10	Claim 6 of the instant application is incorporated in patented claim 10.
Claim 7	Claim 13	Claim 7 of the instant application is incorporated in the patented claim 13.
Claim 8	Claim 11	Claim 8 of the instant application is broader in scope than the patented claim 11.
Claim 9	Claims 11, 12	Patented claim 11 and 12 disclose all the limitations of the claimed invention, but does not disclose the type of aluminum used. It would have been an obvious to having ordinary skill in the art at the time the invention was made to use a anodized metal, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.
Claim 10	Claim 1	Claim 10 of the instant application is incorporated in patented claim 1.

Art Unit: 2875

Claim 11	Claim 1	Claim 11 of the instant application is incorporated in patented claim 1.
Claim 12	Claim 4	Patented claim 4 discloses all the limitations of the claimed invention, but does not disclose the type of material used for the housing. It would have been an obvious to having ordinary skill in the art at the time the invention was made to use a translucent material, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.
Claim 13	Claim 13	Patented claim 13 discloses all the limitations of the claimed invention, but does not disclose the type of material used for the frame and housing. It would have been an obvious to having ordinary skill in the art at the time the invention was made to use a translucent material, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.
Claim 21	Claim 4	Patented claim 4 discloses all the limitations of the

Art Unit: 2875

		<p>claimed invention, but does not disclose the housing being of a particular color. It would have been an obvious to having ordinary skill in the art at the time the invention was made to use a particular color, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.</p>
Claim 22	Claim 4	<p>Patented claim 4 discloses all the limitations of the claimed invention, but does not disclose the color of the housing being the same of the light emitting diode. It would have been an obvious to having ordinary skill in the art at the time the invention was made to use a particular color, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.</p>

Claims 14-16, and 26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 16 of U.S. Patent No. 6, 511, 214. Although the conflicting claims are not identical, they are not patentably distinct from each other as referred in table below.

Instant Application	Patent ( <sup>2</sup> 14)	Discussion or Differences
Claim 14	Claim 1	Patented claim 1 discloses all the limitations of the claimed invention, but does not disclose the housing having a translucent material. It would have been an obvious to having ordinary skill in the art at the time the invention was made to use a translucent material, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.
Claim 15	Claim 2	Claim 15 of the instant application is substantially the same as claim 2.
Claim 16	Claim 2	Patented claim 2 discloses all the limitations of the claimed invention, but does not disclose the power source frame being translucent. It would have been an obvious to having ordinary skill in the art at the time the



Art Unit: 2875

		invention was made to use a translucent material, since it has been held that to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.
Claim 26	Claim 16	Instant application claim 26 is substantially the same as patented claim 16.

Claims 28-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 13-15 of U.S. Patent No. 6,357,890. Although the conflicting claims are not identical, they are not patentably distinct from each other as referred in table below.

Instant Application	Patent ('890)	Discussion or Differences
Claim 28	Claims 1, 9, 11	Claim 28 of the instant application substantially incorporate all the limitations of patented claims 1, 9 and 11.
Claim 29	Claim 4, 14, 15	Claim 29 of the instant application is substantially the same as patented claim 15.
Claim 30	Claim 5, 13	Claim 30 of the instant application is substantially the same as patented claim 13.

***Allowable Subject Matter***

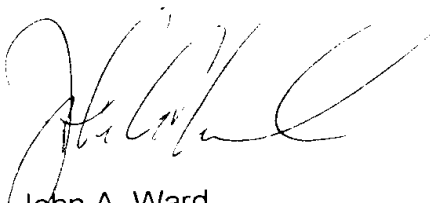
Claims 31-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Ward whose telephone number is 703-305-5157. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0596.

JAW  
March 7, 2003

  
John A. Ward  
Patent Examiner AU 2875